IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CRIMINAL APPLICATION No 316 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMARSINH UDESINH PADHIYAR

Versus

STATE OF GUJARAT

Appearance:
1. Special Criminal Application No. 316 of 2003
MR KIRTIDEV R DAVE for Petitioner No. 1
MISS NANDINI JOSHI ld. APP for respondent no.1
RULE SERVED BY DS for Respondent No. 2
RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 08/05/2003

ORAL JUDGEMENT

The petitioner has challenged the legality and validity of the order of externment passed by the Sub Divisional Magistrate, Vadodara in Externment Case No. 11/2002 dated 13.8.2002 and also the order of confirmation by the Appellate Authority in exercise of powers under sec. 60 of the Bombay Police Act.

The petitioner has challenged the legality and validity of the order of externment on number of grounds,

however, Mr. Dave ld. counsel for the petitioner has mainly concentrated his arguments on the point that the notice served to the present petitioner under sec. 59 of the Act is illegal and invalid and no legal order of externment could have been passed. During the course of oral submissions, Mr. Dave has pointed out that similarly situated other externee namely Parshottam Budhabhai has preferred petition being Special Criminal Application No. 913 of 2003 and the same is allowed by this court vide decision dated 21.2.2003 (Coram: P.B. Majmudar, J.). According to Mr. Dave, ld. Single Judge while dealing with the above said petition, after considering the decision of this Court reported in 1986(1) GLR p. 478, has quashed the order of externment passed by the Externing Authority and confirmed by the State Government. So, without going into the detailed discussion, on the ground of parity and adopting the reasons assigned by the ld. Single Judge while dealing with Special Criminal Application No. 913 of 2003, the order of externment requires to be quashed and set aside.

In the result, this petition is allowed. The impugned order of externment dated 13.8.2002 and the order of confirmation passed by the Deputy Secretary, Home Department, State of Gujarat dated 22.10.2002 are hereby quashed and set aside. Rule is made absolute. DS Permitted.

(C.K. BUCH, J.)
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